

Message Text

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ACTION ARA-14

INFO OCT-01 EUR-12 NEA-11 ISO-00 CIAE-00 DODE-00 PM-05

H-01 INR-10 L-03 NSAE-00 PA-01 SP-02 SS-15 HA-05

NSCE-00 SSO-00 ICAE-00 INRE-00 /080 W

-----028692 312155Z /73

O P 312115Z MAY 78

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC IMMEDIATE 7723

INFO AMCONSUL RIO DE JANEIRO PRIORITY

AMCONSUL SAO PAULO PRIORITY

AMEMBASSY TEL AVIV PRIORITY

AMEMBASSY BONN PRIORITY

AMCONSUL JERUSALEM PRIORITY

AMEMBASSY VIENNA PRIORITY

AMEMBASSY WARSAW PRIORITY

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E.O. 11652: N/A

TAGS: SHUM, SREF, BR

SUBJECT: NAZI WAR CRIMINAL GUSTAV FRANZ WAGNER

REF: BRASILIA 4286

1. EMBASSY CONTACTED ISRAELI AND FRG EMBASSIES MAY 31 CONCERNING INDIVIDUAL IDENTIFIED AS NAZI WAR CRIMINAL GUSTAV FRANZ WAGNER, WHO HAS BEEN HELD SINCE MAY 30 BY SAO PAULO POLICE (REFTEL).

2. ISRAELI COUNSELOR ITZHAK SARFATY TOLD EMBOFF THAT HE WAS IN FREQUENT CONTACT WITH JERUSALEM AND SAO PAULO ON WAGNER CASE, AND EXPECTS "RICH" FUND OF DOCUMENTATION ON DETAINEE'S ACTUAL IDENTITY AND ALLEGED WAR CRIMES TO BE DELIVERED TO GOB ON JUNE 1. SARFATY, HOWEVER, HAD NO DOUBT AS TO WAGNER'S CULPABILITY OF WAR CRIMES AT SOBIBER.

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HE REPORTED THAT ON MORNING OF MAY 31 EYEWITNESSES HAD IDENTIFIED MAN IN CUSTODY AS GUSTAV FRANZ WAGNER, A "VERY HIGH OFFICIAL" AT SOBIBOR CONCENTRATION CAMP WHO MAY HAVE BEEN IN CHARGE OF CONSTRUCTION BUT WHO HAD PERSONALLY KILLED JEWISH CHILDREN. SARFATY CAREFULLY AVOIDED ISSUE OF WHETHER THIS WAGNER WAS THE SAME MAN WHO WAS REPORTED BY WIESENTHAL TO HAVE BEEN VICE-COMMANDANT AT

TREBLINKA, BUT EXPRESSED CONFIDENCE THAT DOCUMENTATION WOULD CLARIFY IDENTITY.

3. SARFATY SAID THAT ISRAELI GOVERNMENT HAD NOT YET DECIDED ON COURSE OF ACTION ONCE WAGNER IS FIRMLY IDENTIFIED. ISRAEL HAS NO EXTRADITION TREATY WITH BRAZIL BUT SARFATY POINTEDLY REFERRED TO OBLIGATION BY ALL SIGNATORIES TO 1948 GENOCIDE CONVENTION TO PUNISH NAZI WAR CRIMINALS. SARFATY HAS TALKED WITH OFFICIALS AT BOTH AUSTRIAN AND FRG EMBASSIES, AND CONFIRMED THAT ALL THREE GOVERNMENTS HAVE REQUESTED THAT THE GOB DETAIN WAGNER PREPARATORY TO A FORMAL REQUEST FOR EXTRADITION. SARFATY OPINED THAT AUSTRIA PROBABLY HAD THE BEST CLAIM, SINCE AUSTRIAN COURT HAD HANDED DOWN INDICTMENT AGAINST WAGNER (EVIDENTLY BASED ON SUFFICIENT EVIDENCE) 14 YEARS AGO.

4. FRG COUNSELOR LEWALTER CONFIRMED TO EMBOFF MAY 31 THAT EMBASSY HAD ASKED GOB MAY 26 TO DETAIN WAGNER WHILE SIMULTANEOUSLY FRG STATE PROSECUTOR SOUGHT MANDATE IN GERMANY FOR WAGNER'S ARREST. LEWALTER INDICATED FRG HAS NO TREATY OF EXTRADITION WITH GOB BUT SAID ON BASIS OF RECIPROCITY BOTH GOVERNMENTS HAD COOPERATED ON EXTRADITION IN THE PAST. HE ADDED THAT COMPLICATING FACTOR IN EXTRADITION MIGHT BE WAGNER'S CLAIM TO HAVING BRAZILIAN CITIZEN CHILDREN. (FYI: DEPT MAY RECALL THAT ESCAPED BRITISH MURDERER AND PARTICIPANT LIMITED OFFICIAL USE

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IN "GREAT TRAIN ROBBERY" RONALD BIGGS HAS SUCCESSFULLY ESCAPED EXTRADITION TO UK ON GROUNDS THAT HE IS THE PARENT OF BRAZILIAN CITIZEN CHILDREN). LEWALTER SAID THAT GERMAN PROSECUTOR HAD ATTEMPTED TO BUILD A CASE IN FRG AGAINST WAGNER ABOUT TEN YEARS AGO, BUT HAD FAILED FOR LACK OF EVIDENCE. IRSRAELIS IN BRASILIA HAD TOLD LEWALTER THAT THEY HAD SUBSTANTIAL EVIDENCE AGAINST WAGNER IN JERUSALEM. ACCORDING TO LEWALTER THERE WAS NO STATUTE OF LIMITATIONS ON CASE, NOR PROBLEMS OF VENUE BECAUSE OF WAGNER'S AUSTRIAN NATIONALITY, TO PREVENT HIM FROM BEING TRIED IN THE FRG. LEWALTER ADDED THAT WAGNER HAD ADMITTED TO FRG CONSUL IN SAO PAULO, WHO VISITED HIM IN PRISON, MAY 30, THAT HE WAS AN SS SENIOR NCO AT ONE OF THE CAMPS. HE CLAIMED NEVER TO HAVE BEEN AN OFFICER. LEWALTER THOUGHT THAT CIRCUMSTANTIAL EVIDENCE WAS STRONG THAT WAGNER WAS INDEED SAME WAGNER SOUGHT AS OF WAR CRIMINAL OF VICE COMMANDANT RANK BY WIESENTHAL. SAYRE

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